

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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Petition of Bell Atlantic Corporation for)
Relief from Barriers to Deployment of)
Advanced Telecommunications)
Services)

CC Docket 98-11

Petition of U S West for Relief from)
Barriers to Deployment of Advanced)
Telecommunications Services)

CC Docket 98-26

Petition Ameritech Corporation to)
Remove Barriers to Investment in)
Advanced Telecommunications)
Capability)

CC Docket 98-32

COMMENTS OF GTE

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domestic telephone operating long distance
and data companies

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SUMMARY

GTE strongly supports forbearance from regulation for access to broadband data networks. GTE believes that the Commission should move expeditiously, as required by Section 706 of the Telecommunications Act of 1996, to encourage advanced data networks and provide all carriers the incentive to invest in new, advanced technologies. Each of the Petitions presents compelling reasons to forbear from regulating the access to advanced data networks.

Even if the Commission does not forbear completely, Section 706 requires the Commission to use other deregulatory tools, such as price cap relief and pricing flexibility, to provide the incentives to ILECs to invest in these needed advanced technologies and access capabilities. Such infrastructure investment, benefiting users, Internet service providers and carriers, would overwhelmingly serve the public interest.

Notwithstanding the strong statutory mandate to encourage advanced communications services, however, other statutory requirements such as Sections 251, 271 and 272 cannot be indirectly overruled. All issues related to RBOC interLATA entry, whether for voice or data transport, must be considered under the terms established in Section 271.

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COMMENTS OF GTE

GTE Service Corporation and its affiliated domestic telephone operating,¹ long distance² and data companies³ (collectively, "GTE") respectfully submit Comments with respect to the above-captioned Petitions filed by three Regional Bell Operating

¹ GTE Alaska Incorporated, GTE Arkansas Incorporated, GTE California Incorporated, GTE Florida Incorporated, GTE Hawaiian Telephone Company Incorporated, The Micronesian Telecommunications Corporation, GTE Midwest Incorporated, GTE North Incorporated, GTE Northwest Incorporated, GTE South Incorporated, GTE Southwest Incorporated, Contel of Minnesota, Inc., and Contel of the South, Inc.

² GTE Communications Corporation, Long Distance Division

³ GTE Internetworking Incorporated

Companies ("RBOCs"), Bell Atlantic Corporation ("Bell Atlantic"), Ameritech Corporation ("Ameritech") and U S West Communications, Inc. ("U S West") (collectively, "Petitioners"). Petitioners seek forbearance from regulation for building and operating high speed, broadband data networks.

I. INTRODUCTION

Petitioners seek forbearance from regulation for the building and operation of high speed, broadband data networks. Although the specific relief requested in each Petition is slightly different, Petitioners generally seek relief from some Section 251(c) requirements for advanced data networks and also relief from inter-LATA restrictions for data transport. Each Petitioner has a slightly different justification for the relief requested: Bell Atlantic focuses attention on the congestion in the hierarchy of the Internet; US West is concerned about providing access to advanced services in its rural areas; and Ameritech attacks the illogic of LATAs and jurisdictional separations being applied to data networks.

Although the Petitioners generally refer to these data networks in unitary terms, a data network is composed of both access and a transport. Each of the Petitioners can already provide access to advanced data networks. The RBOCs are restricted by Section 271 from providing interLATA transport in connection with these data services. While the RBOCs currently provide this type of access, each is required to hand off to an interexchange carrier interLATA transport used in conjunction with their provision of

access services. Each of the Petitioners is seeking relief from the interLATA restrictions at least with regard to the provision of advanced data services.

II. DISCUSSION

A. **Section 706 Clearly and Unambiguously Directs the Commission to Encourage Advanced Services, to Remove Barriers to Infrastructure Investment and to Promote Competition.**

Congress clearly expressed its intention in Section 706 of the Telecommunications Act of 1996 ("the 1996 Act") that the Commission "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability."⁴ Section 706 not only sets out clear direction for the Commission to ensure all Americans have access to advanced telecommunications services, but also encourages the Commission to take the steps necessary to clear away economic impediments that could forestall entry in the market place.

As each of the Petitioners notes, Section 706 requires the Commission to use a variety of deregulatory measures, including regulatory forbearance, to encourage and attain advanced telecommunications capabilities. The statute defines advanced telecommunications capability as "high speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology."⁵ There

⁴ 47 U.S.C. §706(a).

⁵ 47 U.S.C. §706(c).

should be no dispute that the advanced data networks come within the deregulatory scope of Section 706.

The Commission has already acknowledged that its existing rules, designed for traditional circuit-based networks, "may hinder the development of emerging packet-switched data networks."⁶ One of the issues raised by the Commission in the Notice of Inquiry, in fact, is whether to use forbearance to avoid impairing the new advanced data networks. Each of the Petitions presents compelling reasons to forbear from regulating the access to advanced data networks.

GTE urges the Commission to take immediate action to address these issues to encourage development of advanced data networks.

B. The Commission Should Deregulate Access to Advanced Communications Networks Through Forbearance or Other Deregulatory Actions.

It has been well documented that the traditional circuit-switched network is congested and overworked. GTE has advocated moving Internet traffic from the traditional circuit-switched network to a packet-switched network more suited for the "bursty" nature of Internet calls. New technologies are being developed and deployed more suited to the advanced data networks. Each of the Petitioners present strong arguments for forbearing from regulating access to these new data networks.

⁶ *In the Matter of Usage of the Public Switched Network by Information Service and Internet Access Providers*, Notice of Inquiry, CC Docket 96-263, FCC 96-488, released Dec. 24, 1996 at ¶311.

Regulatory forbearance of advanced services like xDSL is critical to the full deployment of such a packet switched network.

By creating a regulatory structure that promotes the full deployment of xDSL services in the marketplace, the Commission will take a significant step in addressing two key problems that have plagued the existing networks providing data access. First, current data traffic characteristics, specifically those of information service providers ("ISPs"), are at odds with the engineering criteria that have formed the existing circuit-switched networks. Internet calls with holding times that are well beyond economically efficient engineering in a circuit-switched network, are ideally suited for a robust packet-switched data network. Second, the jurisdictional assignment of ISP traffic have caused reciprocal compensation disputes and cost recovery mismatches.⁷ The current access scheme has created distortions and diminished the incentive to invest in advanced infrastructure.

Those who take advantage of the current regulations and subsidies created will naturally focus on ways to perpetuate the existing structure by maintaining the existing circuit-switched network architecture, rather than looking for ways to develop tomorrow's advanced telecommunications infrastructure. Certainly this was not the intent of Congress in crafting the Telecommunications Act of 1996. Instead what Congress envisioned was a regulatory scheme that would promote the widespread

⁷ The Commission is well aware of the dispute in the industry regarding whether or not ISP traffic should be classified as local or interstate for purposes of reciprocal compensation between connecting carriers.

deployment of advanced services through a framework that would encourage innovation and risk taking. The Commission has the opportunity to recognize that the existing regulatory scheme will only impede access to new advanced data networks. The Commission should create a framework by deregulating the access to these advanced data networks.

ILECs, including Petitioners, currently provide access to data communications services. Petitioners need no further authority to provide access to advanced data services such as xDSL. Although the Petitioners suggest that they need relief from the transport restrictions, access to advanced data networks does not require that the ILEC provide interLATA transport. Nonetheless, GTE agrees with the Petitioners that forbearance from regulating the access to data networks would encourage investment and innovation and provide incentives to provide advanced services to more rural and remote locations.

The Commission must also recognize that the implicit subsidies that characterize the ILECs' existing rate structures are simply not sustainable in the provision of advanced communications services. The current pricing scheme inhibits investment in new technologies. Even if the Commission does not forbear from regulation, Section 706 requires the Commission to use other deregulatory tools, such as price cap relief and pricing flexibility, to provide the incentives to ILECs to invest in these needed advanced technologies and access capabilities. Such infrastructure investment, benefiting users, ISPs and carriers, would overwhelmingly serve the public interest.

The price cap regime has seen, over many years, a gradual and persistent approximation of market pricing, but inevitably falls short of being the best moderator of consumer protection -- an open, competitive market place. Price cap regulation retards and distorts competition because of its labyrinthine system of implicit subsidies and arbitrary productivity factors. Further, the arduous tariff filings and subsequent investigations makes price cap regulation much too restrictive to keep pace with the rapidly evolving technology used in advanced data networks. At a minimum, access to advanced communications services should be removed from price cap regulation.

Pricing flexibility for services subjected to real competition, another mechanism available to the Commission, could be directly applied to the advanced data networks proposed by Petitioners. However, the pricing flexibility that has been discussed as part of the Access Charge Reform proceeding, with its system of triggers and responses, relies too heavily on regulatory manipulation rather promoting true market incentives.

Deregulation of access to advanced data networks will send a clear signal to the industry. ILECs would have the incentive to invest in new technologies and equipment unfettered by undue regulation. ISPs would have access to high speed networks of the ILECs and would be better able to provide high speed services to their own customers. Equipment vendors would be encouraged to develop an advanced telecommunications infrastructure. These benefits and incentives would effectively counterbalance current incentives to perpetuate the use of the existing circuit switched network for data.

ILECs, with their purchasing power, would quickly turn to packet switching alternatives that allow them to more efficiently route traffic. This, in turn, would stimulate the equipment vendors to invest in the research and development required to meet the demand for high speed routing and switching equipment of the local exchange carriers. The Commission should use this opportunity to stimulate innovation. To encourage advanced telecommunications infrastructure investment, the Commission must resist imposing the existing regulatory burdens on the advanced services offered by incumbent local exchange carriers.

C. InterLATA Transport Issues Must be Considered in a Section 271 Proceeding.

Each of the Petitioners takes the position that it should be permitted to carry interLATA data traffic, although each suggests a slightly different justification. Advancements in technology are rapidly blurring the distinction between a TCP/IP-based packet switching technology platform and the retail end-user services that a carrier can provide over such a network. While GTE agrees that encouraging the development of advanced broadband network is in the public interest, GTE does not believe that the statutory requirements of Sections 271 and 272 can be indirectly overruled through forbearance. GTE believes that issues related to RBOC interLATA service, whether for voice or data transport, must be considered under the terms established in Section 271.

D. A Backbone Network Marketplace Has Emerged Without BOC Participation

Petitioners would have the Commission believe that without their participation in the backbone data networks, there would be no innovation, improvements or advanced technologies deployed. GTE rejects Bell Atlantic's suggestions that existing backbone providers provide inadequate service and focus only on business customers. Bell Atlantic further opines that this situation will not improve until the Commission grants the forbearance sought by Bell Atlantic. Obviously, the network had developed without the RBOCs and will continue to develop and improve.

GTE/BBN operates a high speed backbone network that has been characterized as the "heart and soul" of GTE's Internetworking unit by GTE Chairman Charles Lee.⁸ Lee said GTE is also completing construction of a Florida fiber route as well as links from Boston to Washington and from San Jose to Los Angeles, all to be completed by early next year. GTE Internetworking's revenues are expected to triple from \$280 million and dial up access base double from 270,000 as of the end of last year.

RBOC talents and resources are indeed substantial and make them formidable competitors. However, it is flat wrong to imply that all providers of backbone services are hunkered down in a defensive posture. GTE has invested more the one-half billion dollars to support its commitment to be an intense and effective competitor.

⁸ Comm Daily, March 18, 1998

III. CONCLUSION

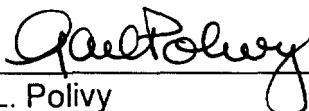
Section 706 provides the direction to encourage investment in the services and equipment needed to build and operate advanced telecommunications services.

Accordingly, GTE concurs with Petitioners that the Commission should forbear from regulating access to advanced data networks.

Respectfully submitted,

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Certificate of Service

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